

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE ENROLLED ACT No. 1980

AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-5-4-9 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) This section applies after December 31, 2003, whenever the individual who holds the office of circuit court clerk is a candidate on the ballot for any office.**

(b) As used in this section, "ballot" refers to an absentee ballot, a ballot card, or any other form of ballot.

(c) Notwithstanding any law requiring the name or signature of the circuit court clerk to appear on a ballot for authentication or any other purpose, the name or signature of the individual who is circuit court clerk may not appear on the ballot except to indicate that the individual is a candidate for an office.

(d) The circuit court clerk shall substitute a uniform device or symbol prescribed by the commission for the circuit court clerk's printed name or signature to authenticate a ballot.

SECTION 2. IC 3-11-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) **Subject to IC 3-5-4-9**, a ballot that is mailed must bear the circuit court clerk's official seal and signature or facsimile signature on the back of the ballot. Before the ballot is mailed:

(1) the two (2) members of the absentee voter board in the office of the circuit court clerk; or

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(2) the two (2) appointed members of the county election board or their designated representatives; shall place their initials in ink on the back of the ballot. The initials must be in the persons' ordinary handwriting or printing and without a distinguishing mark of any kind. No other initialing of the absentee ballot is necessary.

(b) An absentee ballot that is voted before an absentee voter board under IC 3-11-10-25 or IC 3-11-10-26 must bear the seal, signature, and initials prescribed by IC 3-11-10-27.

SECTION 3. IC 3-11-10-27, AS AMENDED BY P.L.126-2002, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) This section does not apply to a ballot mailed to a voter under this chapter.

(b) **Subject to IC 3-5-4-9**, before a ballot is voted under section 25 or 26 of this chapter before an absentee voter board, it must bear the circuit court clerk's official seal and signature or facsimile signature and be initialed by:

- (1) the absentee voter board visiting the voter under section 25(b) of this chapter (except in a county subject to subsection (c)); or
- (2) the county election board or the board's designated representatives under IC 3-11-4-19 if the ballot is cast at the office of the circuit court clerk under section 26 of this chapter.

(c) A county election board may adopt a resolution providing that the absentee ballots to be voted before an absentee voter board visiting the voter under section 25(b) of this chapter must be initialed by the county election board or the board's representatives under IC 3-11-4-19 and not by the absentee voter board visiting the voter. A resolution adopted under this subsection remains in effect until rescinded by the county election board. The election board may not rescind the resolution during the final sixty (60) days before an election.

(d) The initials must be in ink on the back of the ballot, in the person's ordinary handwriting or printing, and without a distinguishing mark of any kind. No other initialing of the absentee ballot is necessary.

SECTION 4. IC 3-12-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) If a ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating machines, then a remake team composed of one (1) person from each of the major political parties of the county shall have the card prepared for processing so as to record accurately the intention of the voter insofar as it can be ascertained.

(b) If the ballot card voting system is designed to allow the counting

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and tabulation of votes by the precinct election board, the members of the remake team must be members of the precinct election board in which the ballot was cast.

(c) If necessary, a true, duplicate copy shall be made of the damaged ballot card in the presence of witnesses and substituted for the damaged card. Similarly, a duplicate ballot card shall be made of a defective card, not including the uncounted votes.

(d) This subsection applies to an absent uniformed services voter permitted to transmit an absentee ballot by fax under IC 3-11-4-6. To facilitate the transmittal and return of the voter's absentee ballot by fax, the county election board may provide the voter with a paper ballot rather than a ballot card. The paper ballot must conform with the requirements for paper ballots set forth in IC 3-10 and IC 3-11. After the voter returns the ballot by fax, a remake team appointed under this section shall prepare a ballot card for processing that accurately records the intention of the voter as indicated on the paper ballot. The ballot card created under this subsection must be marked and counted as a duplicate ballot under sections 6 through 7 of this chapter.

(e) If an automatic tabulating machine fails during the counting and tabulation of votes following the close of the polls, the county election board shall immediately arrange for the repair and proper functioning of the system. The county election board may, by unanimous vote of its entire membership, authorize the counting and tabulation of votes for this election on an automatic tabulating machine approved for use in Indiana by the commission:

- (1) until the repair and retesting of the malfunctioning machine; and
- (2) whether or not the machine was tested under IC 3-11-13-26.

SECTION 5. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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